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B. Crockett
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MAY 13 1961

MEMORANDUM FOR THE PRESIDENT

Subject: Application of the Battle Act to Cuba

The Problem

The possible invocation of the trading with the Enemy Act, and other actions under consideration with respect to Cuba, raises the question of whether the United States should also invoke the Battle Act.

The terms of the Battle Act provide that it shall be applied with respect to any "nation--threatening the security of the United States, including the USSR and all countries under its domination". Notwithstanding the large extent to which Cuba appears in fact to be dominated by the USSR, no finding to this effect has yet been made by the Battle Act Administrator (the Under Secretary of State for Economic Affairs). Such a finding is required in order to bring its provisions into effect with regard to Cuba.

Actions Required Under the Battle Act

The application of the Act would require that we approach foreign aid recipient countries to inform them of the inclusion of Cuba within the Act and to request their cooperation in extending an embargo on shipments of arms and strategic materials to Cuba. It would then be mandatory (except where you wished to exercise your discretionary power or in cases where the Act is waived under Section 451 of the Mutual Security Act) that all foreign aid must be cut off from any country which knowingly fails to cooperate. Of the strategic Battle Act items only quartz crystals from Brazil and boron from Argentina and Chile are produced in Latin America. Neither of these is consumed by Cuba in significant amounts. The Act would have a minimal economic effect on Cuba because that country's demand for strategic items (except for arms which it is now receiving from the USSR) is very limited.

The Alternatives

Although the effect of application of the Battle Act on Cuba

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may be minimized, the logic of our other actions and public and Congressional pressures may lead us eventually to invoke the Act. The immediate question is whether we should act now or whether we should delay until a multilateral framework has been established within which this action can take place.

In support of immediate invocation of the Battle Act are the following points:

(1) Castro has openly declared his allegiance to the Sino-Soviet bloc and this action would therefore be logical and generally approved by public and Congressional opinion in the United States.

(2) It will probably become increasingly difficult to explain to Congress our failure to invoke this Act, particularly should we invoke the Trading with the Enemy Act.

In support of delay in the invocation of this Act are the following points:

(1) Because of the requirement that the United States seek cooperation from aid recipient nations (which might be interpreted as requiring of them a similar policy judgment with regard to Cuba), its immediate application would probably cause some unfavorable response, particularly in Mexico, Brazil, Ecuador, Chile and Bolivia.

(2) Any harmful effect on Latin American countries would be mitigated if invocation of the Battle Act was part of a multilaterally agreed program on a hemisphere basis to deal with the Cuban problem.

(3) It is probable that certain of the COMECON countries which might occasionally be sources of Battle Act items for Cuba would be much more ready to cooperate if this Act had the apparent support of a majority of the Latin American countries.

Legal Situation

The Executive has a considerable degree of flexibility as to any finding that Cuba is "Soviet-dominated" for the purposes of the Act. Moreover a finding that Cuba is "Soviet-dominated" for the purpose of one Act does not require that it be found "Soviet-dominated" for the purpose of all other Acts. For example, while Poland is considered as a "Soviet-dominated" country for the purpose of the

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2. Pursuant to the commitment to the multilateral approach with regard to the East-West dialogue in making every effort to ensure its progress, I propose that any finding that the Act is applicable to Cuba be delayed until the chances of obtaining multilateral agreements or opinions by the U.S. with regard to Cuba have been fully explored.

2. I propose also that we immediately begin discussing with our NATO allies and bilaterally with Japan and other interested countries the probability of this eventual action.

Let Chester Bowles

Acting Secretary

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Battle Act, it is not considered "Soviet-dominated" for the purpose of Public Law 480 or Section 5 of the Trade Agreements Extension Act of 1951, even though those latter two acts use similar language.

Should the Trading with the Enemy Act be invoked against Cuba, there is no legal requirement that the Battle Act must also be invoked.

Recommendation

1. Because of our commitment to the multilateral approach with regard to Cuba and our interest in making every effort to insure its success, I propose that my finding that the Act is applicable to Cuba be delayed until the chances of obtaining multilateral agreements or actions by the OAS with regard to Cuba have been fully explored.

2. I propose also that we immediately begin discussing with our NATO allies and bilaterally with Japan and other interested countries the probability of this eventual action.

/s/ Chester Bowles

Acting Secretary